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No. 87-1661

Supreme Court, U.S.

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IN THE  
SUPREME COURT OF THE UNITED STATES  
October Term, 1987

ASARCO Incorporated, Can-Am Corporation,  
Magma Copper Company, and  
James P.L. Sullivan,

Petitioners,

vs.

Frank and Lorain Kadish, et al.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI  
TO THE SUPREME COURT OF  
THE STATE OF ARIZONA

RESPONDENTS' OPPOSITION TO  
MOTIONS FOR LEAVE TO FILE  
BRIEFS AMICUS CURIAE

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Two motions for leave to file briefs  
amicus curiae are currently pending in  
the above-captioned matter: one by

Phoenix Brick Yard and one by the Alaska Miners Association, Southwestern Minerals Exploration Association, and GSA Resources Inc. Both motions should be denied.

Phoenix Brick Yard has at all times been a member of the defendant class in the litigation below. The class consists of all present and future mineral lessees of state lands. Petition for Certiorari (Petition), Appendix at 3a. All class members were given notice of the litigation at the time of class certification, id. at 40a, but Phoenix Brick Yard chose not to intervene. The interests of the class members have been and are being represented by petitioner ASARCO Incorporated, which was designated as a class representative by the trial court.

Id. at 41a. Accordingly, the filing of an amicus brief by Phoenix Brick Yard would amount to nothing more than double-briefing on behalf of the class.

The same rationale applies to GSA Resources Inc., one of the parties to the second amicus motion. GSA is also a class member that chose not to intervene below and its interests are therefore also being represented by the petitioners in this matter. As for the Southwestern Minerals Exploration Association and Alaska Miners Association, these groups offer viewpoints that are not significantly different from those of the petitioners.

Accordingly, the motions for leave to file amicus curiae briefs should be denied.

Respectfully Submitted,

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June 1, 1988